

**Internal Revenue Service**

Department of the Treasury

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Person To Contact:

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Telephone Number:

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May 20, 2010

**LEGEND:**

Taxpayer = (EIN: )

Parent = (EIN: )

Plant =

State =

x =

Location =

Funds =

Dear :

This letter is in response to your request for a ruling dated , under section 468A of the Code and the regulations thereunder confirming that the nuclear decommissioning funds that the Taxpayer established for Plant may be used for the removal of and that have been replaced while the Plant continues to operate.

Taxpayer represents the facts and information relating to its request for rulings as follows:

Taxpayer, a partnership indirectly owned entirely by Parent, is engaged in the business of generating and selling electric power in State. Parent files a consolidated federal income tax return with its affiliated entities including Taxpayer.

Taxpayer owns an undivided x percent interest in each unit of Plant. Plant is situated at Location. Taxpayer has incurred costs to remove and (collectively components) that previously have been replaced at Plant. Taxpayer is not in the process of final decommissioning of Plant and the replacement of the components is meant to extend the life of Plant not to conclude that life.

Each unit at Plant consists of \_\_\_\_\_ and \_\_\_\_\_. The \_\_\_\_\_ contains the fuel assemblies that heat and pressurize the water used as the primary coolant. This water then passes through the \_\_\_\_\_, where it converts a bath of secondary water into \_\_\_\_\_, which is used to push the \_\_\_\_\_. As the \_\_\_\_\_. Accordingly, the \_\_\_\_\_ perform a separate, but integrated function within each nuclear unit in the production of electricity. Further, Taxpayer treats the \_\_\_\_\_ as separate assets for regulatory and financial accounting purposes.

The \_\_\_\_\_ serve a different function from the \_\_\_\_\_. The \_\_\_\_\_ plays a passive role as the \_\_\_\_\_ within which the \_\_\_\_\_. The \_\_\_\_\_. The \_\_\_\_\_, on the other hand, is a \_\_\_\_\_.

Further, the \_\_\_\_\_ have a shorter useful life than the \_\_\_\_\_, as evidenced by the fact that they needed to be replaced while the \_\_\_\_\_ were still in operation. Accordingly, the \_\_\_\_\_ perform a separate, but integrated function within each nuclear unit in the production of electricity. Taxpayer treats the \_\_\_\_\_ as separate assets for regulatory and financial accounting purposes.

#### Law and Analysis:

Section 468A(a) allows owners/operators of nuclear power plants to currently deduct the future costs of decommissioning a nuclear power plant by making contributions to a Fund prior to when economic performance occurs.

Section 468A(c)(1) generally requires the owner/operator to include in gross income amounts that are distributed from a Fund. In addition to any deduction under § 468A(a) for contributions to a Fund, § 468A(c)(2) recognizes that an owner/operator may deduct otherwise deductible nuclear decommissioning costs, (such as under § 162), for which economic performance (within the meaning of § 461(h)) occurs during a taxable year.

Section 1.468A-1T(b)(6) of the temporary Income Tax Regulations provides that the term “nuclear decommissioning costs” or “decommissioning costs” means all otherwise deductible expenses incurred in connection with the entombment, decontamination, dismantlement, removal and disposal of the structures, systems and components of a nuclear power plant that has permanently ceased the production of electric energy. That section further provides that the term nuclear decommissioning costs is defined broadly to include expenses incurred before, during, and after the actual decommissioning process of the nuclear power plant that has ceased operations.

The costs incurred to remove the components are incurred in connection with the entombment, decontamination, dismantlement, removal, and disposal of the structures, systems, and components of a nuclear power plant. The components taken from Plant are not being reused and are, therefore, irrevocably committed to the process of decommissioning.

Taxpayer represents that the costs incurred to remove the components are otherwise currently deductible under § 165(a) because the components are separate assets that have been permanently removed from Taxpayer's trade or business. Based upon this representation and our conclusion that the costs incurred to remove the components are incurred in connection with the entombment, decontamination, dismantlement, removal and disposal of the structures, systems and components of a nuclear power plant, we find that these costs are decommissioning costs within the meaning of § 1.468A-1(b)(6). Consequently, Taxpayer may use amounts in its Funds to pay for the costs incurred to remove the components at Plant.

Except as specifically determined above, no opinion is expressed or implied concerning the Federal income tax consequences of the transaction described above. Specifically, no determination is made whether the costs incurred to remove the components are currently deductible under § 165(a) or any other section of the Code.

This ruling is directed only to the Taxpayer who requested it. Section 6110(k)(3) of the Code provides it may not be used or cited as precedent. In accordance with the power of attorney on file with this office, a copy of this letter is being sent to your authorized representative. We are also sending a copy of this letter ruling to the Director. Pursuant to § 1.468A-7T(a), a copy of this letter must be attached (with the required Election Statement) to Taxpayer's federal income tax return for each tax year in which Taxpayer claims a deduction for payments made to the Fund.

Sincerely,

Peter C. Friedman  
Senior Technician Reviewer, Branch 6  
(Passthroughs & Special Industries)